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6 **BEFORE THE**  
7 **BOARD OF REGISTERED NURSING**  
8 **DEPARTMENT OF CONSUMER AFFAIRS**  
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2012-581

11 **JILL A. JOHNSON**

12 P.O. Box 1018  
13 Honokaa, HI 96727

**DEFAULT DECISION AND ORDER**

14 Registered Nurse License No. 497584

[Gov. Code, §11520]

15 Respondent.

16 **FINDINGS OF FACT**

17 1. On or about March 29, 2012, Complainant Louise R. Bailey, M.Ed., RN, in her  
18 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
19 of Consumer Affairs, filed Accusation No. 2012-581 against Jill A. Johnson ("Respondent")  
20 before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

21 2. On or about January 31, 1994, the Board of Registered Nursing ("Board") issued  
22 Registered Nurse License No. 497584 to Respondent. The Registered Nurse License expired on  
23 October 31, 2007, and has not been renewed.

24 3. On or about March 29, 2012, Respondent was served by Certified and First Class  
25 Mail copies of the Accusation No. 2012-581, Statement to Respondent, Notice of Defense,  
26 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,  
27 and 11507.7) at Respondent's address of record which, pursuant to California Code of  
28

1 Regulations, title 16, section 1409.1, is required to be reported and maintained with the Board.

2 Respondent's address of record was and is:

3 P.O. Box 1018  
4 Honokaa, HI 96727.

5 4. Service of the Accusation was effective as a matter of law under the provisions of  
6 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
7 124.

8 5. On or about April 12, 2012, the Certified mailing was returned to the Board by the  
9 U.S. Postal Service marked "Returned to Sender Refused." On or about April 16, 2012, the First  
10 Class mailing was returned to the Board by the U.S. Postal Service marked "Returned to Sender  
11 Refused."

12 6. Government Code section 11506 states, in pertinent part:

13 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
14 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
15 of the accusation not expressly admitted. Failure to file a notice of defense shall  
16 constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
17 may nevertheless grant a hearing.

18 7. Respondent failed to file a Notice of Defense within 15 days after service upon her of  
19 the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2012-  
20 581.

21 8. California Government Code section 11520 states, in pertinent part:

22 (a) If the respondent either fails to file a notice of defense or to appear at the  
23 hearing, the agency may take action based upon the respondent's express admissions  
24 or upon other evidence and affidavits may be used as evidence without any notice to  
25 respondent.

26 9. Pursuant to its authority under Government Code section 11520, the Board finds  
27 Respondent is in default. The Board will take action without further hearing and, based on the  
28 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
taking official notice of all the investigatory reports, exhibits and statements contained therein on  
file at the Board's offices regarding the allegations contained in Accusation No. 2012-581, finds

1 that the charges and allegations in Accusation No. 2012-581, are separately and severally, found  
2 to be true and correct by clear and convincing evidence.

3 10. Taking official notice of its own internal records, pursuant to Business and  
4 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
5 and Enforcement is \$570.00 as of April 24, 2012.

6 **DETERMINATION OF ISSUES**

7 1. Based on the foregoing findings of fact, Respondent Jill A. Johnson has subjected her  
8 Registered Nurse License No. 497584 to discipline.

9 2. The agency has jurisdiction to adjudicate this case by default.

10 3. The Board of Registered Nursing is authorized to revoke Respondent's Registered  
11 Nurse License based upon the following violations alleged in the Accusation which are supported  
12 by the evidence contained in the Default Decision Evidence Packet in this case.

13 a. Respondent subjected her license to disciplinary action under Business and  
14 Professions Code ("Code") section 2761, subdivision (a)(4) of the Code on the grounds of  
15 unprofessional conduct because Respondent was disciplined by the Wyoming State Board of  
16 Nursing ("Wyoming Board"), Texas Board of Nursing ("Texas Board") and the Idaho Board of  
17 Nursing ("Idaho Board"). The disciplinary action taken by the Wyoming Board stemmed from  
18 Respondent's diversion of Ativan from her place of employment by altering a prescription. The  
19 disciplinary action taken by the Texas Board and the Idaho Board were based on the disciplinary  
20 action by the Wyoming Board. The conduct is described in more particularity in Accusation No.  
21 2012-581, inclusive and herein incorporated by reference.

22 b. Respondent subjected her license to disciplinary action under section 2761  
23 subdivision (a) of the Code on the grounds of unprofessional conduct because she falsified  
24 hospital and patient records in order to obtain Ativan for her own use, failing to exercise the  
25 learning, skill, or care of a competent registered nurse. The conduct is described in more  
26 particularity in Accusation No. 2012-581, inclusive and herein incorporated by reference.

27 c. Respondent subjected her license to disciplinary action under section 2762,  
28 subdivisions (a) and (e) of the Code in that on or about January 21, 2006, she attempted to obtain

1 or possess in violation of the law a controlled substance or dangerous drug and falsified a  
2 prescription to do so. The conduct is described in more particularity in Accusation No. 2012-581,  
3 inclusive and herein incorporated by reference.

4 d. Respondent subjected her license to disciplinary action under section 2762,  
5 subdivision (b) of the Code on the grounds that she used a controlled substance or dangerous drug  
6 to an extent or in a manner dangerous or injurious to herself and to the extent that impaired her  
7 ability to conduct with safety to the public the practice of a registered nurse. The conduct is  
8 described in more particularity in Accusation No. 2012-581, inclusive and herein incorporated by  
9 reference.

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ORDER

IT IS SO ORDERED that Registered Nurse License No. 497584, heretofore issued to Respondent Jill A. Johnson, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on August 6, 2012.

It is so ORDERED July 6, 2012

  
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FOR THE BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS

51100354.DOC  
DOJ Matter ID:LA2012506404

Attachment:  
Exhibit A: Accusation No. 2012-581

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 GLORIA A. BARRIOS  
Supervising Deputy Attorney General  
3 KATHERINE MESSANA  
Deputy Attorney General  
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*Attorneys for Complainant*

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8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. **2012-581**

11 **JILL A. JOHNSON**

12 **P.O. Box 1018**  
13 **Honokaa, HI 96727**

**A C C U S A T I O N**

14 **Registered Nurse License No. 497584**

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her  
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
21 of Consumer Affairs.

22 2. On or about January 31, 1994, the Board of Registered Nursing issued Registered  
23 Nurse License Number 497584 to Jill A. Johnson ("Respondent"). The Registered Nurse License  
24 expired on October 31, 2007, and has not been renewed.

25 **JURISDICTION AND STATUTORY PROVISIONS**

26 3. This Accusation is brought before the Board of Registered Nursing ("Board"),  
27 Department of Consumer Affairs, under the authority of the following laws. All section  
28 references are to the Business and Professions Code ("Code") unless otherwise indicated.

1           4.     Section 2750 of the Code provides, in pertinent part, that the Board may discipline  
2 any licensee, including a licensee holding a temporary or an inactive license, for any reason  
3 provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

4           5.     Section 2764 of the Code provides, in pertinent part, that the expiration of a license  
5 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the  
6 licensee or to render a decision imposing discipline on the license. Under Section 2811  
7 subdivision (b) of the Code, the Board may renew an expired license at any time within eight  
8 years after the expiration.

9           6.     Sections 118 subdivision (b) of the Code also grants the Board jurisdiction over  
10 suspended, expired, forfeited, cancelled, or surrendered licenses:

11           “The suspension, expiration, or forfeiture by operation of law of a license issued by a  
12 board in the department, or its suspension, forfeiture, or cancellation by order of the  
13 board or by order of a court of law, or its surrender without the written consent of the  
14 board, shall not, during any period in which it may be renewed, restored, reissued, or  
15 reinstated, deprive the board of its authority to institute or continue a disciplinary  
16 proceeding against the licensee upon any ground provided by law or to enter an order  
17 suspending or revoking the license or otherwise taking disciplinary action against the  
18 licensee on any such ground.”

19           7.     California Code of Regulations, title 16, section 1419.3 provides:

20           “In the event a licensee does not renew his/her license as provided in  
21 Section 2811 of the code, the license expires. A licensee renewing pursuant to this  
22 section shall furnish a full set of fingerprints as required by and set out in section  
23 1419(b) as a condition of renewal.

24           (a) A licensee may renew a license that has not been expired for more  
25 than eight years by paying the renewal and penalty fees as specified in Section 1417  
26 and providing evidence of 30 hours of continuing education taken within the prior  
27 two-year period.

28           (b) A licensee may renew a license that has been expired for more than  
eight years by paying the renewal and penalty fees specified in Section 1417 and  
providing evidence that he or she holds a current valid active and clear registered  
nurse license in another state, a United States territory, or Canada, or by passing the  
Board's current examination for licensure.”

8.     Section 2761 of the Code states, in pertinent part:

“The board may take disciplinary action against a certified or licensed  
nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the  
following:



...

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action."

9. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

(d) Be committed or confined by a court of competent jurisdiction for intemperate use of or addiction to the use of any of the substances described in subdivisions (a) and (b) of this section, in which event the court order of commitment or confinement is prima facie evidence of such commitment or confinement.

(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section."

#### **COST RECOVERY**

10. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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**FIRST CAUSE FOR DISCIPLINE**

**(Disciplinary Action by Other State of the United States)**

11. Respondent is subject to disciplinary action under section 2761, subdivision (a)(4) of the Code on the grounds of unprofessional conduct because Respondent was disciplined by the Wyoming State Board of Nursing ("Wyoming Board"), Texas Board of Nursing ("Texas Board") and the Idaho Board of Nursing ("Idaho Board") as follows:

12. On or about April 8, 2009, in the disciplinary action entitled *In the Disciplinary Matter of Jill A. Johnson*, the Wyoming Board made findings of fact, conclusions of law and approved a Settlement Agreement, Stipulation and Order accepting the voluntary surrender of Respondent's Registered Professional Nurse license. The circumstances underlying the disciplinary action by the Wyoming Board are as follows:

- a. On or about March 20, 2006, the Wyoming Board received a complaint filed by Kim Thebault, CNO, at St. John's Medical Center ("SJMC") in Jackson, Wyoming. The complaint alleged drug diversion by Respondent.
- b. On or about the week of January 15, 2006, while Respondent was employed as a contractor through Cross Country Staffing at SJMC, Respondent approached Dr. Martha Stern for a prescription of Ativan for a patient.
- c. On or about January 21, 2006, Respondent attempted to fill the prescription for herself at the Albertson's pharmacy in Jackson, Wyoming.
- d. The pharmacist noticed the name of the prescription was overwritten and contacted the Jackson Police Department and the Board of Pharmacy.
- e. The pharmacy also contacted Dr. Stearn, and after reviewing the prescription, Dr. Stearn determined that her original prescription was altered for the following reasons: (1) the name and possibly the date were overwritten, and (2) the prescription indicated information Dr. Stearn did not complete, including age and address.
- f. Criminal charges followed the criminal investigation.

g. Respondent pled guilty to one count of Possession of a Controlled Substance by Fraud, pursuant to W.S. § 35-7-1033(c)(iii). However, the conviction was deferred and governed by Wyo.Stat.Ann. § 7-13-301, and the Court placed Respondent on three(3) years of supervised probation beginning on September 19, 2006.

h. SJMC's internal investigation of Respondent and possible drug diversion revealed that there was no evidence of behaviors or patterns of diversion evident from a review of both MARS and PYXIS reports, though the facility's CNO noted that "(t)here were a number of charting deficiencies...primarily a failure to document efficacy of many medications given (and that) (t)he medication charting was not ideal."

i. On or about June 30, 2006, Respondent addressed the complaint filed against her with the Board. In a written statement, Respondent admitted that she entered a plea agreement to defer her criminal sentence and received probation. She also admitted to abuse of prescription medication since 2005. Respondent also admitted to altering the January 15, 2006 Ativan prescription by adding her name, address, age and date on the prescription though she attributed her alteration to a "miscommunication" she had with the prescribing physician.

13. On or about March 23, 2010, the Texas Board entered an Order of the Board, revoking Respondent's Permanent Certificate Number 609053. The circumstances underlying the disciplinary action by the Texas Board are that on or about March 25, 2009, Respondent voluntarily surrendered her license to practice professional nursing in the State of Wyoming to the Wyoming Board. Action by the Wyoming Board constituted grounds for disciplinary action by the Texas Board.

14. Effective November 5, 2010, the Idaho Board took action to accept the findings of fact, conclusions of law and final order, revoking Respondent's professional nurse license. The circumstances underlying disciplinary action by the Idaho Board are that on or about April 9, 2009 the Wyoming Board approved a Settlement Agreement, Stipulation and Order to indefinitely suspend Respondent's Wyoming nursing license.

15. Under Section 2761 subdivision (a)(4) of the Code, the disciplinary action by the Wyoming, Texas and Idaho Board against Respondent for diverting prescription drugs is grounds for the California Board to take disciplinary action.

## SECOND CAUSE FOR DISCIPLINE

**(Unprofessional Conduct)**

16. Respondent is subject to discipline under section 2761 subdivision (a) of the Code on the grounds of unprofessional conduct because she falsified hospital and patient records in order to obtain Ativan for her own use, failing to exercise the learning, skill, or care of a competent registered nurse. The conduct is described in more particularity in paragraphs 11 through 15, above, inclusive and herein incorporated by reference.

### THIRD CAUSE FOR DISCIPLINE

**(Drug Related Transgressions)**

17. Respondent is subject to disciplinary action under section 2762, subdivision (a) and (e) of the Code in that on or about January 21, 2006, she attempted to obtain or possess in violation of the law a controlled substance or dangerous drug and falsified a prescription to do so. The conduct is described in more particularity in paragraphs 11 through 15, above, inclusive and herein incorporated by reference.

18. Respondent is subject to disciplinary action under section 2762, subdivision (b) of the Code on the grounds that she used a controlled substance or dangerous drug to an extent or in a manner dangerous or injurious to herself and to the extent that impaired her ability to conduct with safety to the public the practice of a registered nurse. The conduct is described in more particularity in paragraphs 11 through 15, above, inclusive and herein incorporated by reference.

## PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

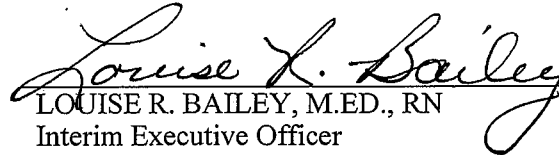
1. Revoking or suspending Registered Nurse License Number 497584, issued to Jill A. Johnson;

1           2.     Ordering Jill A. Johnson to pay the Board of Registered Nursing the reasonable costs  
2 of the investigation and enforcement of this case, pursuant to Business and Professions Code  
3 section 125.3;

4           3.     Taking such other and further action as deemed necessary and proper.  
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6

7  
8 DATED:

March 29, 2012



LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
*Complainant*

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